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May 28, 2010

TO: California Department of Education, Charter Schools Division  
FROM: Today's Fresh Start Charter School  
SUBJECT: TFSCS Renewal Appeal

In this memo we will first set forth the Los Angeles County Board of Education's ("LACBOE") findings that they put forth as their justification for the denial of TFSCS' ("TFSCS" or the "Charter School") charter petition renewal. Following the LACBOE's findings TFSCS has set forth its response indicating why the findings cannot be relied on as the basis for their denial on April 6, 2010. The vote to deny the second renewal of the TFSCS petition was based on a staff report presented to the LACBOE by the Los Angeles County Office of Education ("LACOE") (collectively, LACBOE and LACOE are referred to herein as the "County"). This memo first *excerpts in italicized text*, and then responds to each of the County's findings for charter renewal denial, and follows the order of the findings that were submitted to the charter school attached to the letter stating that the LACBOE had denied the request for renewal of their charter school petition.

#### County's Findings

##### (1) Unsound Educational Program

*Academic Performance has been inconsistent. TFSCS did not make AYP in 2007; The school made AYP in 2009 through alternative Safe Harbor calculations and is "frozen" in PI Year 1 status; TFSCS is identified as being one of the persistently lowest-achieving schools in California; a chart of API growth for the past 5 years was included; a narrative of the American Recovery and Reinvestment Act of 2009 School Improvement Grant program was included including the intervention models required under this act.*

#### TFSCS Response:

##### Unsound Educational Program

The test scores for TFSCS in 2004 were for a numerically insignificant number of students; 56 were tested. This score has been erroneously included in the compilation of TFSCS test scores. By including that year, the compiled scores were for six (6) years. ETS and all other research states that there needs to be at least 100 students tested to make up a numerically significant number. Notwithstanding the above, TFSCS has embraced this designation and applied for the SIG (School Improvement Grant) to improve the overall program and student achievement. If the first year is excluded, TFSCS would show a +83 API point gain.

Education Code Section 47607(b) states, "*.....a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a): (1) Attained its Academic Performance Index (API) growth target in the prior year.....*" In 2009, CDE set an API growth target of 8 points for TFSCS. TFSCS achieved 42 API points, more than 5 times the requirement which placed TFSCS in the top 11 % of all schools in the State of California. TFSCS also met AYP for all subgroups. Therefore, TFSCS met its academic and statutory requirements for charter renewal. It is undeniable by the County that TFSCS has met the criteria for charter renewal.

The County asserts that the TFSCS charter renewal petition presents an unsound educational program despite the fact that the Charter School has made significant academic gains in 2008-09, and has every expectation that those gains will be repeated when test results for 2009-10 are made available. The 2009 API growth report shows an API of 685, a statewide rank of 1, and a similar schools rank of 3. These numbers reflect a 42-point API growth (which is more than five times the growth target of 8), and a similar schools rank of 3, a marked improvement from 2007-08. Furthermore, TFSCS's API scores demonstrated substantial growth in each of its subgroups, including: African-Americans (API score of 677 reflecting 48 points of growth); Latinos (API score of 703 reflecting 41 points of growth); Socioeconomically disadvantaged (API score of 690 reflecting 41 points of growth); and English Learners (API score of 724 reflecting 49 points of growth). The County had all of this data available when it conducted its review, but largely ignored it, in order to paint a more ominous picture. The fact remains that the TFSCS educational program is clearly working, and the Charter School's students are outperforming their peers in other public schools.

TFSCS attributes the 2008-09 API growth to TFSCS' implementation of the High Priority School Grant Program (HPSGP) awarded to us by CDE, which was very successful. The plans in the HPSGP were implemented, which included developing and implementing a strategic plan (available upon request). Part of the strategic plan was using the Edusoft computer based technology program. Edusoft contains a bank of California standards based assessment questions. Students are assessed weekly using these standards based questions. The assessment results yield individual student achievement. Edusoft helps TFSCS teachers to identify and evaluate the specific standards where students are strongest and weakest. By pin pointing the student's weakness, re-teaching, re-assessing on the standard and giving more individualized attention is the strategy for those students who are weaker. Edusoft also helps TFSCS review assessments of teachers, as well. Implementation of Edusoft allows the Charter School to utilize data to improve instruction "on the spot," so it is pivotal to TFSCS's plan for student improvement and teacher knowledge of the students' academic level.

As a result of fine tuning and synergizing these two basic strategies, the strategic plan and Edusoft technology, TFSCS knows precisely what each child needs to learn to achieve and will attribute increased API gains for 2009 to its efficient usage. (*Now that TFSCS has a State approved Technology Plan which can improve our overall program and track where each child is individually, we are confident with state of the art technology the school can move forward where "no child is left behind" and "close the achievement gap."*) The strategic plan focused assessment on an individual student level, not a classroom level. Classroom performance must be disaggregated to determine individual student performance. By identifying individual students' strengths and weakness, TFSCS is able to tailor each student's academic program into an Individualized Learning Plan.

As TFSCS continues to use Edusoft and other strategies put into place, it is very confident that its scores will continue to trend upward, as it gains an ever-clearer picture of its individual students' performance.

Additionally, the Charter School points out that the County elected to ignore relevant comparison data when evaluating TFSCS's educational program. The following charts demonstrate that the Charter School has outperformed its comparison schools (two elementary schools and one middle school in Los Angeles Unified School District) consistently over the past charter term. The comparison schools were selected by the County based on a cluster of students representing the school they would have otherwise attended.

### 2009 Growth Report

School	API Growth Score	API Growth (target) <sup>1</sup>	African-American (growth) <sup>2</sup>	Latino (growth)	SES <sup>3</sup> (growth)	EL (growth)
<b>TFSCS</b>	<b>685</b>	<b>42 (8)</b>	<b>677 (48)</b>	<b>703 (41)</b>	<b>690 (41)</b>	<b>724 (49)</b>
Hyde Park Elementary	590	-13 (10)	537 (-36)	619 (2)	590 (-15)	606 (3)
Hillcrest Elementary	600	-9 (10)	585 (10)	605 (-40)	605 (-2)	579 (-43)
Horace Mann Middle	558	19 (13)	528 (20)	585 (15)	563 (27)	552 (9)

#### Notable points for 2009:

- TFSCS’s API growth score was 85 points higher than the next comparison school, and it grew 42 points, more than double the next comparison school
- TFSCS’s African-American subgroup score of 677 was 92 points higher than the next comparison school
- TFSCS’s Latino subgroup score of 703 was 84 points higher than the next comparison school
- TFSCS’s Socioeconomically Disadvantaged subgroup score of 690 was 118 points higher than the next comparison school
- TFSCS’s EL subgroup score of 724 was 92 points higher than the next comparison school

### 2008 Growth Report

School	API Growth Score	API Growth (target)	African-American (growth)	Latino (growth)	SES (growth)	EL (growth)
<b>TFSCS</b>	<b>638</b>	<b>-15 (7)</b>	<b>627 (-11)</b>	<b>657 (-44)</b>	<b>646 (-7)</b>	<b>664 (-48)</b>
Hyde Park Elementary	601	-11 (9)	572 (-6)	615 (-15)	603 (-12)	602 (-8)
Hillcrest Elementary	611	41 (12)	576 (24)	646 (61)	609 (40)	623 (57)
Horace Mann Middle	544	23 (14)	516 (18)	572 (28)	542 (17)	545 (26)

#### Notable points for 2008:

- TFSCS’s API growth score was 27 points higher than the next comparison school
- TFSCS’s African-American subgroup score of 627 was 51 points higher than the next comparison school
- TFSCS’s Latino subgroup score of 657 was 11 points higher than the next comparison school
- TFSCS’s Socioeconomically Disadvantaged subgroup score of 646 was 37 points higher than the next comparison school

<sup>1</sup> The number in parentheses represents the school’s growth target for a given year.

<sup>2</sup> The number in parentheses represents the school’s actual growth from the prior year, for a given year.

<sup>3</sup> SES is an abbreviation for Socioeconomically Disadvantaged students.

- TFSCS’s EL subgroup score of 664 was 41 points higher than the next comparison school

2007 Growth Report

School	API Growth Score	API Growth (target)	African-American (growth)	SES (growth)
<b>TFSCS</b>	<b>654</b>	<b>-20 (6)</b>	<b>639 (-31)</b>	<b>654 (-16)</b>
Hyde Park Elementary	615	34 (11)	584 (32)	618 (39)
Hillcrest Elementary	574	-17 (10)	559 (-19)	573 (-17)
Horace Mann Middle	521	-7 (14)	498 (-8)	525 (-4)

Notable points for 2007:

- TFSCS’s API growth score was 39 points higher than the next comparison school
- TFSCS’s African-American subgroup score of 639 was 55 points higher than the next comparison school
- TFSCS’s Socioeconomically Disadvantaged subgroup score of 654 was 36 points higher than the next comparison school
- The Charter School did not have reportable subgroup scores for Latino and EL students in 2007

2006 Growth Report

School	API Growth Score	API Growth (target)	African-American (growth)	SES (growth)
<b>TFSCS</b>	<b>676</b>	<b>79 (10)</b>	<b>672 (72)</b>	<b>672 (75)</b>
Hyde Park Elementary	581	8 (11)	554 (22)	579 (6)
Hillcrest Elementary	591	6 (11)	580 (3)	590 (8)
Horace Mann Middle	531	-10 (13)	512 (-8)	532 (-11)

Notable points for 2006:

- TFSCS’s API growth score was 85 points higher than the next comparison school
- TFSCS’s African-American subgroup score of 672 was 92 points higher than the next comparison school
- TFSCS’s Socioeconomically Disadvantaged subgroup score of 672 was 82 points higher than the next comparison school
- The Charter School did not have reportable subgroup scores for Latino and EL students in 2006

Therefore, the Charter School submits that while the County emphasized its inconsistent scores as evidence of an unsound educational program, the more compelling point is that TFSCS has outperformed its comparison schools, even in the years when it posted its lower test scores.

The State Board of Education (“SBE”) has promulgated regulations which guide the California Department of Education (“CDE”) in its review of charter petitions. While not binding on county or district authorizers,

the Regulations nevertheless serve as persuasive authority as to the criteria against which a charter should be reviewed. Specifically with regard to the educational program, the Regulations (5 CCR 11967.5.1(b)) define “an unsound educational program” as follows:

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be ‘an unsound educational program’ if it is either of the following:

- (1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.
- (2) A program that the State Board of Education determines not to be likely to be of educational benefit to the pupils who attend.

The County’s written findings for denial of the TFSCS charter renewal fail to demonstrate that the Charter School’s program involves activities that present a likelihood of physical, educational, or psychological harm to students, or that the program is not likely to be of educational benefit to the students who attend. In fact, it is clear that the students at TFSCS receive more educational benefit than those in the comparison schools identified above. Accordingly, the County has no basis for concluding that TFSCS’s educational program is unsound and thus it is not a valid reason for denial of the charter renewal petition.

#### County’s Findings

##### Middle school students:

*Middle school students: performance data is presented for Language Arts and Math, but only for 2008-09 STAR; the petition does not offer evidence of a standards-based eighth grade mathematics course pursuant to the updated Mathematics Frameworks setting forth the eighth grade standards-based course-taking options of Algebra I or Algebra Readiness.*

#### **TFSCS Response:**

##### **Middle School Students**

TFSCS disagrees with the County’s assessment of the comprehensiveness of the description of the educational program in the charter petition with regard to students in the middle school grades due to the following quoted sections from the charter petition:

- Page 16, “**Mathematics**: Students will develop abilities to reason logically and to understand and apply mathematical processes and concepts, including those within arithmetic, **algebra, geometry, and other mathematical** subjects...” (Emphasis added.)
- Page 6: TFSCS will follow “State approved programs such as Houghton Mifflin that provide a full range of subjects completely correlated with California State Standards.”
- Page 5: “Core knowledge in the subjects of language arts, **math**, science, social studies, geography, and history, is essential. However, such knowledge must be coupled with an appreciation for their environment and performing arts.” (Emphasis added.)

It is not necessary or practical to list each subject or framework separately in the petition. The petition is written to be flexible enough to include changes to the California Frameworks or Content Standards. A list of subjects by grade level is maintained by each classroom teacher and is available upon request.

In August, 2009, the County approved TFSCS’s request for a *material revision* of its charter. The *material revision* amended the Charter School’s grade build out plan to state that TFSCS operates as a K-8 charter

school, and will begin serving students in grades 9-12 at such time as this plan is feasible, given physical space and instructional capabilities. The course descriptions objected to here are identical to those approved by the County just eight months ago. In reviewing a material revision of a charter, the County was bound by the standards and criteria in Education Code Section 47605, the same standards and criteria used to review a charter renewal. Given the same standards and criteria and the identical charter language, it is impossible to understand how the language could be sufficient in August, 2009 and insufficient now. It is thus disingenuous for the County to introduce this concern now to support the non-renewal of the charter.

County's Findings

High School Students

*High School Students: The petition fails to address required elements for schools proposing to serve high school students; inform parents as to whether each individual course offered by the charter school meets college entrance requirements...”; There is no build out plan for establishing a high school program.*

**TFSCS Response**

**High School Students:**

TFSCS is a K-8 charter school. Any reference to TFSCS operating a high school program does not apply to TFSCS for the following reasons. Although originally submitted and approved as a K-12 charter school, the County has recently, with its *material revision* on August 18, 2009 approved TFSCS as a K-8 school. Therefore, all findings related to the legal requirements for charter schools operating a high school program do not apply to TFSCS. The County is undeniably aware that TFSCS is operating as a K-8 school and, further, that the Charter School will not serve students beyond the eighth grade unless and until the LACBOE approves a build out plan. Because TFSCS serves students in grades K-8, and because the County has approved such operation, the petition should have been reviewed as a K-8 school charter renewal and not as a charter school with a high school program. In fact, TFSCS is barred and unable to begin to take steps toward operating as a high school until such time that the County approves a *material revision* in their charter as specifically required in the August 18, 2009 Board (LACBOE) Resolution approving the *material revision* which required TFSCS to operate only as a K-8 school.

County's Findings

English Learners

*English Learners\_The petition does not demonstrate an understanding of sound educational practice for English learners; There is no mention of English language development; The petition demonstrates a lack of understanding of State and Federal Requirements under Title III; in 2008-09 incorrect student data codes were submitted resulting in limited data available to determine Title III Accountability targets.*

**TFSCS Response**

**English Learners:**

Although Education Code Section 47605 (b)(5)(A) does not require a charter petition to contain a methodology for serving English Learners (“EL”), TFSCS recognizes that both the CDE’s Model Application for Charter Schools, and the significance of this student sub-group within its population merit a considered discussion of how ELs are served. (*see page 2 “Notable points for 2009” where TFSCS English Learners’ subgroup exceeded the comparison schools by 84 points.*) Typically, authorizers look for a description of how EL students will be identified and served; this is the criteria TFSCS applied in drafting its charter. The TFSCS charter describes that students are identified using the Home Language Survey and the results of the CELDT. It states that English Learners are taught English using the California Standards for English Language Development. The charter states on pages 16-17 that ELs are provided extra teaching time. Students who are redesignated are monitored according to Federal Statutes and Charter Law.

Therefore, the Charter School believes that it has demonstrated an understanding of sound educational practice for English Learners. All English learners are placed in English mainstream classes. Each EL is provided an additional 30 minutes of English language development emphasizing phonemic awareness, decoding/word recognition, vocabulary and written language conventions. All TFSCS teachers are classified “highly qualified” and certifications of CLAD (Cross Cultural Language Arts Development) or BCLAD (Bi-Lingual Cross Cultural Language Arts Development). The teachers (along with other school staff) provide small group instruction and focus on weekly Friday assessment results to monitor student learning of the ELD standards.

Additionally, the County points to a coding error that occurred as a reason the Charter School’s Educational Program is unsound, because LACOE could not determine Title III Accountability targets. LACOE has selected an inadvertent error as evidence of an unsound educational program; when in fact, there is solid evidence that our English Learners are consistently reaching their growth targets. As you can see from the tables above (pages 2 & 3), the EL subgroup has consistently out-performed comparison schools; and in the last school year, the EL subgroup performance grew by 49 points. During the 2007-08 school year EL’s met growth targets in Mathematics. During the 2008-09 school year, EL’s met growth targets in both Language Arts and Mathematics. In addition, TFSCS has 191 English Learners and re-designated 60 of them this year.

### County’s Findings

*Low and Underperforming Students: The petition uses Individualized Learning Plans, small class size, and experiential opportunities for meeting the needs of all students; the petition fails to provide a description of how students will be identified, served, or supported; the Early Intervention Program is identified for elementary students, who struggle in reading, but no program is identified for middle and high school students.*

*Students with Disabilities: The petition fails to provide a description of the manner in which students with disabilities will be identified, referred for assessment, etc. There is no mention of RTI or SST; the petition does affirm adherence to laws regarding students with disabilities and does not state whether the school is an LEA for the purposes of special education as required by charter law.*

*Protected Classes: The petition affirms to follow nondiscrimination policies of Education Code § 220. The petition fails to affirm protection under Title IX (sex discrimination in education), as required by law.*

### **TFSCS’ Response**

**Special Populations: Low and Underperforming Students, Students with Disabilities, Protected Classes:**

The determination of an unsound educational program should not be based exclusively on pupil performance. Because this is a renewal, this argument carries less weight than it would for a petition to establish a charter school. TFSCS students primarily come from two of the most chronically underperforming elementary schools within the Los Angeles Unified School District (“LAUSD”) —Hyde Park Elementary, and Hillcrest Elementary. In grades 6, 7, and 8, TFSCS serves students from Horace Mann Middle School and which is also a consistently low performing school. For the past 5 years, TFSCS students have outperformed all of these schools in English Language Arts and Mathematics STAR tests, as well as in all sub-groups we have in common, as demonstrated in the charts above.

*As a matter of record, it should be noted that Today’s Fresh Start Charter School enrolls a high percentage of struggling disadvantaged, underperforming and failing students who have a history of scoring “far below and below basic” in mathematics and English language arts in the local traditional public schools. These students therefore must be given more individualized attention to their academic needs by the entire school staff. Therefore, in order to bring them from below proficient to proficient requires a greater amount of time, effort, attention and resources.*

The analysis of the TFSCS petition as having an unsound educational program is not based on a correct interpretation of Education Code Section 47605 (b). Instead, for this charter petition renewal review, the County has selectively used only certain types of performance data instead of the data which the County has had for the past 5 years when comparing TFSCS STAR results with the public schools TFSCS students would have otherwise attended. These are schools that the County has selected and has known that when students attend TFSCS their performance increases.

### **TFSCS Response**

#### **Low and Underperforming Students:**

Education Code Section 47605(h) states, “...*The governing Board...shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving.*” Contrary to the Legislative intent, the County as an authorizer has penalized TFSCS by denying the renewal petition, *wrongly using* student achievement test scores by stating TFSCS has been inconsistent even though TFSCS has consistently out performed the comparison schools over the last five years (see charts pages 2, 3, 4) and exceeded their 2009 API CDE growth target and has met the statutory requirement for charter renewal (page 1 for statutory requirements)

The TFSCS petition describes how intervention is provided to struggling students. It states throughout pages 6 to 15 that the Charter School utilizes standards-based intervention materials, such as Phonics For Reading and High Point. Consultants are utilized who practice intervention reading strategies and techniques to help improve students’ reading and mathematics performance. TFSCS hires instructional consultants in literacy, mathematics, and differentiated instructional strategies. The consultants utilized research based strategies such as Bloom’s Taxonomy, McTighe and Wiggans, Carol Tomlinson and others. There is information in the TFSCS petition that informs the reviewer that the Charter School recognizes that some students will need additional support and we employ a variety of strategies and personnel to provide it. In kindergarten and first grade, students are screened for academic, social emotional, performance. In grades 2-8, performance on CST’s is used to determine which students may be in need of intervention and/or supplemental instruction. Students scoring basic, below basic, or far below basic are provided supplemental instruction through core subject modification, small group/individual instruction, and intensive services. Teachers are also coached by consultants to improve instructional delivery.

### **TFSCS Response**

#### **Students with Disabilities:**

The County finds that “the petition does affirm adherence to laws regarding students with disabilities.” TFSCS included this statement as a means of providing flexibility for the Charter School to adjust to changing laws rather than to list each one in its current form separately.

As a local educational agency (“LEA”) member of the Southwest Special Education Local Plan Area (“SELPA”), TFSCS is required to implement the local plan for that SELPA. The TFSCS Board of Directors affirms every year to adhere to that local plan. The Southwest SELPA has a procedural manual that determines how students are to be identified and served. Rather than include the voluminous procedures in the charter renewal petition, TFSCS attached a letter from the SELPA Director confirming its membership and adherence to SELPA procedures, which include identification and referral for assessment, among myriad other procedures. The Charter School does not believe that a reasonably comprehensive description requires a thorough explanation of the Student Study Team (“SST”) process because such process is required by the SELPA. In addition, the County was presented with evidence of the Self-Study results conducted by TFSCS and the SELPA during the 2008-09 school year. The results indicate that there were no items out of

compliance. This is evidence of adherence to all statutes and regulations pertaining to students with disabilities, and yet the County elected to review form over substance in this important area.

Further, TFSCS wishes to point out again that none of these concerns were raised by LACOE in its review and approval of the *material revision* only eight months prior to the renewal.

**TFSCS Response**  
**Protected Classes:**

The Charter School is confused by this finding. The County acknowledges that the renewal petition affirms non-discrimination of Education Code Section 220, and then states that TFSCS did not affirm protection under Title IX. However, it is redundant to isolate Title IX. TFSCS does not discriminate on the basis of gender, or on the basis of any other protected class. This statement of non-discrimination includes all classes and genders of persons as set forth in Title IX.

County's Findings

(2) Demonstrably Unlikely to Succeed

*(2) The petitioners are demonstrably unlikely to successfully implement the program.*

Failure to fulfill terms of its 2005 charter:

*Failure to address student outcomes; repeatedly failed to report progress to the County Board on stated academic goals.*

*Repeated failure to provide the County Board, Superintendent, and LACOE staff designated to provide oversight with reasonable requests for information pursuant to Education Code § 47604.3*

*Failure to follow the grade expansion stated on page four of the petition.*

*Failure to comply with assurance that "all sites comply with building code standards and regulations..." It has failed to maintain valid Certificates of Occupancy for two of its five sites;*

*Failed to address high school requirements.*

*Failure to implement recruitment strategies. The petition lacks documentation that the school successfully implemented recruitment strategies or achieved the demographic goal specified by the 2005 recommendation to authorize the charter.*

**TFSCS Response**  
**Demonstrably Unlikely to Succeed**

The State Board of Education Regulations offer guidance as to how to interpret the term "demonstrably unlikely to successfully implement the program." 5 CCR 11967.5.1(c) states in relevant part:

(c) For purposes of Education Code section 47605(b)(2), the State Board of Education shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program."

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the State Board of Education regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the

charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the State Board of Education's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. ...

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

The County has made no findings in the area of demonstrably unlikely to succeed which have a basis in fact, and thus the findings in this section cannot serve as a lawful basis for denial of the charter renewal petition.

### **TFSCS Response**

#### **Failure to address student outcomes:**

An annual report to the County has been presented each of the past 5 years (including the current year). TFSCS has never received feedback from the County that the annual reports were incomplete, and as such, believed that it was adequately reporting student progress to the County. At no time during the LACOE staff's presentation to the LACBOE during the TFSCS charter renewal process, did LACOE staff inform the LACBOE or the Charter School that the TFSCS annual report was incomplete. Accordingly, this is not evidence that TFSCS is demonstrably unlikely to successfully implement its program. A copy of each of the annual reports is available for review.

### **TFSCS Response**

#### **Repeated failure to provide the County Board...information pursuant to 47604.3.:**

TFSCS is puzzled by this finding, and troubled that the County offered no examples at all of specific items that the Charter School failed to provide to the County. Every item of information that has been requested of the Charter School by the County has been promptly provided to the County, whether or not TFSCS deemed the request reasonable. Indeed, the County itself failed to adhere to Education Code Section 47604.3 which states: “[a] charter school shall promptly respond to all reasonable inquiries...and shall consult with the chartering authority, county office of education, or the Superintendent of Public Instruction regarding any inquiries.” (Emphasis added.) LACOE refused to consult with TFSCS on any requests, *particularly those that exceeded what was required by law*, or requests that were duplicative in nature (which frequently created an undue burden and/or distraction for the school). For example, LACOE requires that all TFSCS' Board Meetings are taped and the tapes must be brought to the LACOE office within five days after the TFSCS Board Meeting, all at the expense of TFSCS. LACOE never discussed this matter with TFSCS. Many of the LACOE requirements are unnecessary and unreasonable, time consuming and distracts from the instructional program. Charter law and LACOE policy requires preparation and submission of quarterly financial reports, however, LACOE staff with the approval of the Superintendent requires TFSCS to submit these same reports monthly with no justification for deviation from charter law or their policy. TFSCS has never had any audit exceptions or hint of impropriety with its financial status.

**TFSCS Response**

**Failure to follow grade expansion:**

On March 9, 2010, one month before the LACBOE decision to not renew the TFSCS charter, County staff and Board members were presented with a corrected page that clarified that TFSCS is, and intends to operate as, a K-8 charter school as agreed upon and mandated by the *material revision* in August 2009. Any reference to a grade expansion does not apply to this petition. Accordingly, this finding is not a valid reason for denial of the charter renewal petition.

**TFSCS Response**

**Failure to comply with assurance to comply with building code standards and regulations:**

This statement is incorrect. TFSCS has a Certificate of Occupancy for all of its sites, including the Compton Site (see attached exhibit). The Certificate of Occupancy for the 54 th Street site (Unity) was accepted by LACOE for four years without question. The City of Los Angeles recently changed the zoning without the knowledge and approval of the church and now has required the owner of the property (the church) to apply for a Conditional Use Permit, which they have done; and the City of LA has stated that TFSCS can continue to occupy the property until at such time that the City grants the Conditional Use Permit. The building meets all building code requirements for a school and it has been used as a school for over 30 years. Therefore, the charter school has complied with all local building requirements and codes to officially occupy this site. This information has been given to LACOE on many different occasions. However, they continue to assert this position as if there is a violation, when they know there is no violation.

**TFSCS Response**

**Failure to address high school requirements:**

As above, TFSCS is a K-8 school. It does not currently operate a high school program, and it never has operated a high school program. The County is well aware of the grade span of our school, having approved a *material revision* of such in August, 2009. Accordingly, this finding is not a valid reason for denial of the charter renewal petition.

**TFSCS Response**

**Failure to implement recruitment strategies:**

In practice, the Charter School has absolutely successfully implemented recruitment strategies, and has achieved the demographic goal specified in the 2005 recommendation to renew the charter. In 2003, its first year of operation, TFSCS's enrollment was approximately 220 students. Its Hispanic enrollment was less than 10%. Since that time, the Charter School enrollment has increased to over 600 students and the Hispanic enrollment is approximately 40%. TFSCS has advertised on the radio, newspapers, direct mail to select household zip code areas, flyers in local businesses, local magazines, such as grocery ad magazines and other local businesses.

**County Findings**

**(5) Reasonably Comprehensive**

**Description of the School's Educational Program:** *The learning environment and education program are based solely on the needs of elementary middle or high school students. Required elements for a high school program are absent; there is no mention of A-G required courses; high school graduation; fails to describe academic and linguistic support for English Learners when progress is made; how English learners are identified and served in special education; no attempt to tie curriculum, instructional materials, instructional methods, standards and assessments together; describe how special education students will be provided with*

access to the general education curriculum or the referral and identification process. It defers responsibility to the SELPA.

**TFSCS Response:**

**Reasonably Comprehensive**

Overall in this section, “*Reasonably Comprehensive*,” the County is looking for a level of detail that is not required by the law, – descriptions of the 16 required elements need only be reasonably comprehensive - and that is beyond that which was necessary when the *material revision* was approved in August 2009 using the same standard for review, specifically the standards and criteria found in Education Code Section 47605. This entire section of findings thus appears disingenuous. Despite this, the Charter School has prepared a detailed response to each finding as set forth herein.

Any reference to operating a high school program does not apply to TFSCS. It is a K-8 charter school.

**TFSCS Response:**

**Description of the School’s Educational Program:** This finding repeats and combines previous findings. The Charter School has already responded to the County’s concerns regarding descriptions of a standards-based instructional approach for middle school students; the operation of a high school program; meeting the needs of English Learners; and serving special education students. In accordance with the responses above, this finding cannot serve as the basis for denial of the charter renewal petition.

*County Findings*

*Measurable Pupil Outcomes:* *The petition does not identify measurable student outcomes for any subject area grade level or subgroup. The petition does not indicate how growth is measured using standardized tests for any subject area at specific grade levels. There is no evidence of outcomes to ensure...CAHSEE, AP Tests, PSAT, SAT.*

**TFSCS Response**

**Measurable Pupil Outcomes:**

TFSCS uses the growth targets established by the California Academic Performance Index (API) for the content standards and subgroup performance. In addition to the 8 outcomes listed in the charter, TFSCS also pursues pupil outcomes tied to standardized tests, and does differentiate outcomes by subject area, grade level, and subgroup. TFSCS reviews each student’s test score results to determine and evaluate the student’s weakness and strengths in the core subjects. A comparative study is done to determine an Individual Learning Plan for each student. Also see TFSCS Response, “*Underperforming Students*,” page 8 for a more detailed description.

*County Findings*

*Methods to Assess Pupil Progress toward Outcomes:* *The petition does not provide specifics on how the school will measure student progress using a variety of assessment tools. The current level of student performance is not provided in order to set measurable student outcomes. It does not describe formative and summative assessment systems used to monitor student progress and identify students for intervention.*

**TFSCS Response**

**Methods to Assess Pupil Progress toward Outcomes:**

Pages 17-18 of the TFSCS petition list a variety of assessment tools, including but not limited to CAT-6, CST, Pre/Post Tests, Portfolios, Parent Conferences, and Unit Tests. This is a reasonably comprehensive description of what methods are used to assess pupil progress toward outcomes.

The list clearly indicates that the Charter School uses both formative and summative tests. The petition describes disaggregating student test scores individually and analyzing them to determine proficiency in all academic clusters. Personal focus will be directed to each student to ensure upward progress toward proficiency using running records, computerized mapping and pacing plans.

### County Findings

Facilities: *the petition does not include the intent to renew the lease for any of the five sites.*

*The addresses listed in the petition for the Vernon site do not match those stated on the lease. The petition does not include details such as general description of the facilities, number of classrooms, shared occupancy to ensure separation and safety for multiple occupants.*

### **TFSCS Response**

#### **Facilities:**

LACOE has a list of the addresses proposed to be used by each site in the charter. These addresses were confirmed in September 2008 when LACOE conducted facilities site visits at each site. The fact that the Charter School did not inform the County of its intent to renew the lease for the sites is not evidence that the charter is not reasonably comprehensive. If TFSCS were not going to continue in a particular location, it would have omitted that address from the petition.

The address of the Vernon site represents a location that is composed of multiple addresses. The address on the lease includes the exact location of the TFSCS Vernon campus. If the County needed clarification, the Charter School would have gladly obliged.

TFSCS has always provided LACOE with the number of classrooms it has, which coincides with the number of teachers it has. In addition, when the Charter School submits testing schedules to LACOE, County staff know how many classrooms TFSCS has. The Charter School has not shared any classes at any site. However, LACOE knows or should know that Education Code 47614 states that the school district in which a child is located and children attend that charter school shall provide classroom space to accommodate those children. Certainly the law states that classroom space at a local school district site shall be shared with the charter school when requested according to Proposition 39.

### County Findings

Governance Structure: *Certain provision of the bylaws present a violation of the Brown Act such as permitting an "Action without Meeting" (Bylaws, § 3.08); The petition and bylaws affirm that meetings will comply with and adhere to the Brown Act. A regular set time is required. The bylaws authorize teleconferencing as constituting presence at a meeting without stating the necessary safeguards that would render it compliant with the Brown Act such as posting agendas at the teleconferencing location...*

*TFSCS provided a letter to the Board on January 5, 2010, agreeing to adhere to submission of documents to demonstrate that TFSCS Board meetings are in compliance with the Brown Act.*

### **TFSCS Response**

#### **Governance Structure:**

The County states that both the petition and the bylaws affirm that meetings will comply with and adhere to the Brown Act. The fact that the TFSCS bylaws were not written to the County's satisfaction is not evidence of a lack of a reasonably comprehensive description of the governance structure. As evidences by TFSCS agendas and minutes, Board meetings are held according to the bylaws: one in each of the fall and spring semesters. This is not a violation of the Brown Act as the County purports.

The County readily acknowledges that the Charter School's bylaws affirm compliance with the Brown Act; therefore, it is not necessary to state that it will post agendas at teleconferencing locations and to ensure that those locations are fully accessible to members of the public. Since that is what is required by the Brown Act, TFSCS has affirmed that the appropriate safeguards will be utilized in the event of a teleconference meeting. This level of specificity exceeds the definition of reasonably comprehensive in the description of how the Charter School will be governed.

The County references "numerous" communications including Notice of Concern and Notice of Violation. The fact is that the County has arbitrarily used these titles on communications to the Charter School to request copies of TFSCS Board agendas and meetings that it already had in its possession. Each of the past 5 year annual reports included copies of all board agendas and minutes. On January 5, 2010 TFSCS agreed with the County to submit documents via email to the County's Charter School Office to demonstrate compliance with the Brown Act (i.e. agendas and minutes). It was not an admission that these documents had not been submitted previously. The County is using that agreement to suggest that TFSCS was in violation of the Brown Act when, indeed, it was not, and the County has not ever stated that TFSCS was in violation of the Brown Act in this regard. TFSCS has never been in violation of the Brown Act in conducting its Board Meetings. It is also important to point out the inconsistency of the County's finding here with a prior finding alleging the lack of responsiveness by TFSCS to County requests.

#### County's Findings

Health and Safety Procedures: *The petition does not describe vision, hearing, and scoliosis screenings. "...the petition does state compliance to local health, safety, and building codes..." The petition does not include assurance that the charter will comply with requirements of the Health Department regarding food services.*

#### **TFSCS Response**

##### **Health and Safety Procedures:**

The County reports that the TFSCS petition does "affirm compliance to local health, safety, and building codes". The fact that the charter petition did not individually identify health screenings is not an indication of the lack of a reasonably comprehensive description. Including every individual health, safety, and building code that a seven-year old charter school complies with goes beyond reasonable. TFSCS maintains a safe and healthy environment for its students; e.g. flyers are disseminated in case of any known viruses which may affect the students, such as H1N1. Public Health flyers are posted and given to parents, teachers and staff to alert them to be aware of any flu like systems. All required screenings are conducted by the local regional nurse and the assigned nurse from the SELPA for special education students. The results are recorded on the Student Health History form. Each child is screened for vision, hearing, scoliosis as is required for all special education students. As stated herein, the local SELPA provided the County with a document that stated TFSCS is in compliance with all SELPA requirements including, but not limited to health screenings for its special education students.

Further, in this finding, the County makes a claim that is unsupported by any evidence or documentation. It states: "...required compliance is not completely in place for the term of the charter." It is entirely unclear to what the County is referring. An authorizer must make written factual findings, specific to the charter petition, alleging specific items in order to deny a charter renewal petition. Given the County's vague accusation here, this finding cannot lawfully serve as a basis for denial of the charter petition.

TFSCS does not provide food services for our students. It contracts with outside vendors who provide food to TFSCS students. The Charter School is aware that its vendors are required to comply with the Health

Department rules and regulations, but TFSCS itself is not authorized to regulate those vendors. The County has access to the Charter School's contracts and can verify any information needed.

County's Findings

*Means to Achieve a Reflective Racial and Ethnic Balance: Recruitment strategies are generic. There are no details about promotional materials or outreach meetings. The petition lacks measurable goals and benchmarks.*

**TFSCS Response**

**Means to Achieve a Reflective Racial and Ethnic Balance:**

The Education Code does not require the minute details about promotional materials or outreach meetings in order to meet the "reasonably comprehensive" standard required by law. The originally approved charter and subsequently renewed charter, and more recently materially revised charter did not include this additional level of detail and was approved without criticism as to the amount of detail in this section. We enroll in accordance with the requirements of Education Code Section 47605(d). LACOE's comments appear to indicate their lack of understanding the random manner in which charter schools are required to admit students and are implying that we should establish some type of "quota system" by determining *measurable goals and benchmarks* to achieve a racial and ethnic balance. To engage in such a practice would be a clear violation of both Federal and State laws, specifically Proposition 209. Because this is a renewal, TFSCS had no reason to expect that LACOE would be looking for specific information. Recruitment is primarily by sibling preference, signs at each location, local newspaper ads in the Wave and La Opinion Newspapers, radio and community group meetings. The current demographics of the school are: 40 % Latinos, 59 % African Americans and 1 % Caucasian, Filipino and 90% on free and reduced meals.

County's Findings:

Countywide Abstract

*The petitioner's submitted Abstract (required of all Countywide petitions) pursuant to 47605.6 (b) does not provide adequate justification to be considered a countywide charter.*

*The abstract fails to describe (1) the services offered to a pupil population that will benefit from those services, and (2) the reason students cannot be served as well by a charter school that operates in only one school district in Los Angeles County...*

**TFSCS Response:**

**Countywide Abstract**

This is a disingenuous statement by the County, because TFSCS did not submit an abstract with its 2010 renewal petition. The County did not require an abstract to be submitted with the renewal petition. This is evidenced by the fact that on January 26, 2010, the County submitted a letter to TFSCS stating that the charter renewal petition that had been submitted on January 11, 2010 had been reviewed and considered "complete." The justification for a countywide benefit charter school was presented to and approved by LACBOE in 2003 when TFSCS first established the charter school. To now state that on the third submission of the same charter petition (fourth, including the *material revision*) to LACBOE that the countywide benefit justification used in the previous petitions is not adequate is again disingenuous. The countywide benefit justification has not changed in any submission of the charter to the County. If a new justification was required, then the County was obligated to inform the charter school of such, rather they stated to us that our renewal petition was considered "complete" as submitted.

\* \* \*

**In conclusion**, LACOE's report to LACBOE is factually and legally flawed. The process to review the TFSCS petition did not follow the County's standard for review. During the review process, LACOE did not

contact TFSCS to seek additional information, give feedback or make recommendations. The review focused solely on minutia and not on the gains the Charter School has made with its students. There was a lot of information in the report regarding a high school, when LACOE is fully aware that TFSCS does not operate a high school. *The Assistant Superintendent of Education Services reported to LACBOE that the TFSCS renewal petition is the same petition that was renewed in 2005.* The Charter School met the legal criteria to be renewed, but the County did not follow its own standards of using Education Code Section 47605 as review criteria for the renewal. The County's review standards require a "description", but the report repeatedly uses the term "evidence." A description is not the same thing as evidence.

Finally, it is important to note that in the last few months, the County staff has recommended denial of 2 petitions for other charter schools and after approximately two months of working with those schools, they reversed their position and the Superintendent ultimately recommended approval. The County staff met with those charter schools' representatives and gave them feedback, recommendations and suggestions on how they could change their charter to get approval by the LACBOE. Those same petitions were revised and subsequently recommended for and received approval from the LACBOE. Other LACOE- approved charters experienced the same process during their time of renewal. However, in contrast to the above, TFSCS did not receive the LACOE staff report recommending denial of the renewal until 24 hours before it was to be presented to the LACBOE with a recommendation by the Superintendent to deny the renewal. There was no opportunity for TFSCS to revise and resubmit our petition to include any recommendation that LACOE staff may have made because they made none.

Our first LACBOE Board meeting date for the renewal was March 9, 2010. During that meeting the Superintendent requested a 30 day extension based on what was reported to be a request from the County Board Supervisor (Mark Ridley-Thomas). Reluctantly, we agreed to the postponement. Updated information was presented at the March 9<sup>th</sup> meeting clarifying that our school was a K-8 charter. We were never led to believe that LACBOE would not vote to renew the TFSCS charter. However, after a 30 day hiatus, using the element of surprise, four members voted against the renewal. It was like they played a guessing game with TFSCS. Neither the four Board Members who voted not to renew our charter asked questions, the Superintendent, nor the staff, therefore leaving no impression that any Board Member would not vote for TFSCS charter renewal. Marking the noted "silence" from those Board Members, we were left with the clear impression that the matter had been discussed in secret closed session, violating the Brown Act and Charter School Law; because matters of renewal are to be discussed in *open* session. LACOE and LACBOE were obligated to inform us of any new criteria and that they had no intention of renewing the TFSCS charter regardless of the fact that TFSCS met all requirements for charter renewal. At that time, the LACOE Superintendent rescheduled the Board meeting to vote on the renewal to April 6, 2010. During that entire month (March 9 through April 6) there was no communication from LACOE regarding our renewal petition. This would have been an opportune time to meet and discuss any concerns or clear up any confusion that the County had regarding our school (as they clearly have done with other charters). However, we were led to believe that the County refused to meet with TFSCS during this 30 day extended period.

TFSCS and its Board, Administration, staff and consultants agree that the review criteria used by the County for charter renewal was not those required by Education Code Section 47605(b) as is mandated by the statute. Consequently, the denial of the TFSCS 2010 charter renewal is based on flawed analyses and must be overturned.